

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

NO. 17-CR-20406

vs.

HON. PAUL D. BORMAN

D-7 MICHAEL BROWN,

Defendant.

GOVERNMENT’S SENTENCING MEMORANDUM

The United States of America, by its attorneys, Matthew Schneider, United States Attorney, and David A. Gardey and Erin S. Shaw, Assistant United States Attorneys, respectfully submits this sentencing memorandum regarding defendant MICHAEL BROWN, who is scheduled to be sentenced on November 7, 2018.

Brown is engaged in ongoing cooperation in the criminal investigation of other individuals and entities concerning illegal payments made by FCA and its executives to the UAW and its union officials. At this time the United States recommends a custodial sentence of 12 months. If Brown honors his Cooperation Agreement and continues to provide substantial assistance in the investigation and prosecution of others, there will be an opportunity for a sentencing reduction

pursuant to Federal Rule of Criminal Procedure 35(b)(1). The United States strongly recommends a delayed reporting date to allow Brown to continue his ongoing cooperation and avail himself of this potential opportunity for a sentencing reduction in the future.

I. BACKGROUND

This offense stems from a multi-year conspiracy through which FCA and its executives gave millions of dollars to UAW officials and the union itself in order to buy labor peace. The NTC was an instrumentality of the criminal conspiracy, used as a method to conceal illegal Taft-Hartley payments under the benevolent guise of training workers and ensuring their health and safety.

From 2009 to 2016, Brown was employed as Director of Employee Relations at FCA, and represented FCA as co-director of the NTC. *See* PSR at ¶9. During this time period, Brown was aware that co-defendants Alphons Iacobelli, Jerome Durden and others acting in the interest of FCA used credit card accounts and bank accounts of the NTC to conceal over \$1.5 million in prohibited payments and thing of value to officers and employees of the UAW, including Vice President General Holiefield and co-defendant Virdell King. *See id.*

Brown was subpoenaed to provide testimony to the federal grand jury that was convened to investigate these crimes. Brown testified before the grand jury on

December 16, 2015, while he was still employed as FCA's Director of Employee Relations. *See id.* at ¶10. Brown deliberately provided misleading and incomplete testimony to the grand jury in an effort to conceal the Taft-Hartley conspiracy under investigation. *See id.* Brown retired from FCA in 2016. *See id.* at ¶39. His FCA pension is over \$7,400 a month. *See id.* at ¶40.

Brown's FCA colleagues Durden and Iacobelli were charged in this case in June 2017 and July 2017, respectively. Durden pled guilty in August 2017. Iacobelli pled guilty in January 2018.

On April 3, 2018, Brown was charged in a one count information alleging misprision of a felony pursuant to 18 U.S.C. §4. Brown has executed a Cooperation Agreement with the United States, and has provided cooperation that remains unfinished. The United States fully expects that Brown will continue to cooperate in the United States' ongoing investigation of individuals and entities involved in these Taft-Hartley crimes.

II. SENTENCING GUIDELINE CALCULATIONS AND RELEVANT §3553(a) FACTORS

A. §3553(a)(4): Advisory Guideline Range

The parties and the Probation Department agree that the guideline range is 12 to 18 months.

B. §3553(a)(1): Nature of the Offense and History and Characteristics of the Defendant

The court is aware of the nature of the underlying Taft-Hartley conspiracy given its recent sentencing of co-defendant Iacobelli.

Brown began his career at FCA's predecessor entity in 1985, working his way up through the Chrysler ranks for over 30 years, and even earning a law degree. *See* PSR at ¶39. His loyalty to FCA was firmly established during this very high profile investigation, when he was earning over \$16,000 per month as Director of Employee Relations (*see* PSR at ¶41) and he deliberately provided misleading testimony under oath to a federal grand jury to protect his life-long employer.

C. §3553(a)(2)(A) & (B): Seriousness of the Offense, Promoting Respect for Law, Providing Just Punishment and Deterrence

Although misprision of a felony is not the most serious federal charge, Brown's offense conduct - - deliberately misleading a federal grand jury to conceal a vast Taft-Hartley conspiracy - - is incredibly serious. It also demonstrates a profound lack of respect for the law, particularly given that Brown has a law degree. A custodial sentence will provide just punishment for this offense.

Specific deterrence is not a meaningful concern for this defendant; Brown is a retiree with no prior criminal history who is unlikely to be involved in another labor corruption conspiracy. In contrast, general deterrence is essential, because of

the importance of the integrity of good faith and honest labor-management negotiations, and because this criminal conduct is subject to repetition. Corporate executives need to know that labor corruption -- any and attempts to cover it up -- will be punished severely.

D. §3553(a)(7): Restitution

On October 26, 2018, the NTC filed a motion for recognition of crime victim status and for restitution. The United States opposes the NTC's motion, and will respond in the miscellaneous case that was opened to address it: 18-51532.

III. CONCLUSION

In order to protect his corporate employer, FCA, Brown deliberately misled a federal grand jury. Brown has been cooperating with the United States in this ongoing investigation, and that cooperation is expected to continue. Because Brown's cooperation is incomplete, the United States is unable to fully evaluate his substantial assistance. Accordingly, the United States recommends a sentence of 12 months in custody, with a delayed report date so that Brown may have the opportunity to benefit from a Rule 35 reduction as the case continues to develop as to other individuals and entities under investigation.

MATTHEW SCHNEIDER
United States Attorney

s/Erin S. Shaw

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Dated: October 31, 2018

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2018, I caused the foregoing document to be electronically filed with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Counsel of Record for Michael Brown

s/Erin S. Shaw

ERIN S. SHAW
Assistant United States Attorney

Dated: October 31, 2018